

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 974

**Introduced by Senator Steinberg
(Coauthor: Senator Hancock)**

February 8, 2010

~~An act to add Section 88560 to the Education Code, relating to taxation. An act to add Part 38 (commencing with Section 64200) to Division 4 of Title 2 of the Education Code, and to amend Sections 17053.74 and 23634 of, and to add Sections 6902.6, 17057.6, and 23610.5 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 974, as amended, Steinberg. *Income and corporations tax: credit: career pathways investment credit: hiring and career credit.*

The

(1) *The Personal Income Tax Law and Corporation Tax Law authorize various credits against the taxes imposed by those laws.*

~~This bill would find and declare that the deep economic recession in California requires strategic investments to educate and prepare the workforce to fuel the next state of economic growth. This bill would find and declare that if the dropout crisis is left unchecked, the rate of middle and high school dropouts will increase. This bill would state the intent of the Legislature to enact legislation to ensure that the state's tax expenditure investments are rigorously evaluated and to establish fiscal incentives, such as tax credits, that encourage California businesses to enter into partnerships with schools to strengthen education and develop career skills.~~

This bill, in accordance with legislative findings contained in this bill and for taxable years beginning on or after January 1, 2011, would, for a business entity that provides career technical education, authorize a credit against those taxes, subject to specified limitations, in an amount equal to that allocated by the California Tax Allocation Committee.

This bill would, for taxable years beginning on or after January 1, 2011, in lieu of these credits authorized under the Personal Income Tax Law and the Corporation Tax Law, allow a credit against qualified state sales and use taxes, as provided. This bill would impose specified duties on the California Tax Allocation Committee, the Franchise Tax Board, and the State Board of Equalization, in administering the credits.

(2) The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a hiring credit for qualified taxpayers who hire qualified employees, as defined, within enterprise zones, subject to specific criteria. Qualified employees includes, for purposes of the credit, an ex-offender, as defined.

This bill would revise the definition of “qualified employee” for this purpose, by providing that an ex-offender includes an individual who has been convicted of a felony or a misdemeanor offense punishable by incarceration, or a person charged with a felony or misdemeanor punishable by incarceration but placed on probation without a finding of guilt, with specified exclusions. This bill would also make technical, nonsubstantive changes to remove obsolete references in the credit provisions.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 88560 is added to the Education Code,~~
- 2 ~~to read:~~
- 3 ~~88560. (a) The Legislature finds and declares the following:~~
- 4 ~~SECTION 1. Part 38 (commencing with Section 64200) is~~
- 5 ~~added to Division 4 of Title 2 of the Education Code, to read:~~

1 *PART 38. CAREER PATHWAYS INVESTMENT CREDIT*

2
3 *64200. (a) The Legislature finds and declares the following:*

4 (1) The deep economic recession that has gripped California
5 requires a timely response and strategic investments to educate
6 and prepare the workforce that will help fuel the next stage of the
7 state’s economic growth.

8 (2) The swift recovery of the California economy faces an
9 obstacle in the high numbers of young people dropping out of the
10 state’s middle and high schools. Longitudinal data show that fewer
11 than 70 percent of 9th graders in California graduate from high
12 school in four years. According to the State Department of
13 Education, some 85,000 middle and high school pupils are
14 abandoning secondary schools annually.

15 (3) If the dropout crisis is left unchecked, demographic trends
16 suggest that the rate of future dropouts will increase. The Public
17 Policy Institute of California predicts there will be twice as many
18 high school dropouts in California in 2025 as there will be jobs to
19 support them.

20 (4) According to a 2007 study by the California Dropout
21 Research Project, each cohort of dropouts costs California more
22 than \$46 billion in total economic losses over the lifetimes of those
23 dropouts.

24 (5) The fastest growing occupations in the coming years are
25 expected to be those that require scientific, technical, engineering,
26 or math (STEM) skills, such as jobs in biotechnology, digital media
27 arts, green technology, or computer-related and health-related
28 fields.

29 (6) A 2006 poll of at-risk California 9th and 10th graders by
30 Peter D. Hart Research Associates found that 6 in 10 pupils were
31 not motivated to succeed in school. Of those pupils, more than 90
32 percent said they would be more engaged in their education if
33 classes helped them acquire skills and knowledge relevant to future
34 careers.

35 (7) Comprehensive programs that link challenging academics
36 with demanding career and technical education create engaging
37 pathways to further education, advanced training, and productive
38 jobs in high opportunity careers. They keep students on track to a
39 diploma, postsecondary credentials, and lasting career success.

1 (8) New research from the Public Policy Institute of California
2 suggests that the state’s enterprise zone tax credit program has not
3 significantly increased job creation or the employment of
4 hard-to-hire individuals, as was intended. ~~Two aspects of the~~
5 ~~program that were poorly designed and have produced an especially~~

6 (9) *Two aspects of the enterprise zone program that have*
7 *produced an especially* poor return on investment, Targeted
8 Employment Areas (TEA) and retroactive vouchering, should be
9 phased out in favor of fiscal incentives that enhance workforce
10 development for the jobs of the future and that have a beneficial
11 impact on high school graduation rates.

12 (b) It is the intent of the Legislature to do the following:

13 (1) Evaluate the state’s tax expenditure investments as rigorously
14 as it evaluates the state’s spending programs.

15 (2) Establish fiscal incentives, such as tax credits, that encourage
16 California businesses and industry to enter into partnerships with
17 schools that strengthen middle and high school education statewide.
18 These partnerships will connect ~~students~~ *pupils* and teachers to
19 real-world experience that provides sustained exposure to applied
20 academics, skill development, work-related education, and potential
21 future employers. This experience will keep students engaged and
22 on track to graduation, further education, and productive careers.

23 (c) As used in this section, “tax expenditure” means a credit,
24 deduction, exclusion, exemption, or any other tax benefit as may
25 be provided for by state law.

26 *64201. For purposes of this part:*

27 (a) *“Applicant” means a local educational agency that applies*
28 *to the committee for either an allocation of a portion of the career*
29 *pathways investment credit ceiling for the current taxable year or*
30 *for a reservation of a portion of the career pathways investment*
31 *credit ceiling for a subsequent taxable year.*

32 (b) *“Authentic application” means an activity in the context of*
33 *a middle or high school course that requires pupils to work actively*
34 *with academic and technical concepts, facts, and skills in a*
35 *realistic, work-like setting that emulates the problems encountered*
36 *by professionals and the practices they use to address them. These*
37 *applications typically require pupils to examine a task from a*
38 *variety of perspectives, to draw upon multiple resources, to*
39 *collaborate with others, and to accomplish tasks and projects by*
40 *working in teams rather than individually.*

1 (c) “Career pathways investment credit ceiling” means the
2 aggregate amount of credit that may be annually allocated by the
3 committee pursuant to Sections 17057.6 and 23610.5 of the
4 Revenue and Taxation Code.

5 (d) “Committee” means the California Tax Credit Allocation
6 Committee.

7 (e) “Middle school or high school programs that create career
8 pathways” means programs that support the following:

9 (1) High school pathways programs delivered through high
10 schools, regional occupation centers or programs, California
11 Partnership Academies and other career academies, alternative
12 education programs, including continuation schools and programs
13 administered by county offices of education, or adult education
14 programs, that integrate academic and technical learning to
15 prepare pupils for both postsecondary education and careers in
16 high-growth or high-need sectors of the economy. These programs
17 include core academic courses emphasizing authentic applications,
18 sequences or clusters of three or more courses that align with the
19 State Board of Education approved career technical education
20 standards and frameworks that also integrate key academic
21 concepts and skills, work-based learning opportunities, additional
22 services like counseling or supplementary instruction in reading,
23 writing, and mathematics. These programs shall also:

24 (A) Focus on occupations requiring comprehensive skills in
25 leading to high entry-level wages or the possibility of significant
26 wage increases after a demonstrated amount of time at the position.

27 (B) Provide prerequisite courses that are needed to enter
28 apprenticeships, or postsecondary vocation certificate or degree
29 programs. Where possible, sequenced courses shall be articulated
30 with, or linked to, postsecondary certificate and degree programs
31 in the region.

32 (C) Offer as many courses as possible that have been approved
33 by the University of California as courses meeting the “A-G”
34 admissions requirements.

35 (2) Curriculum and professional development.

36 (3) Middle school career exploration activities.

37 (4) Externship opportunities that expose middle school and high
38 school teachers to the skills and competencies that pupils need for
39 successful employment in high-growth sectors of the California
40 economy.

1 (5) *Active engagement by business and industry in pathway*
2 *design and implementation, work-based learning, assessment of*
3 *student work, and other aspects of effective preparation for success*
4 *in further postsecondary education and careers.*

5 (f) *“Qualified taxpayer” means a business entity that enters*
6 *into a contract or memorandum of understanding with an applicant*
7 *to provide career technical education that connects pupils to*
8 *real-world experience and provides sustained exposure to applied*
9 *academics, skill development, work-related education, and*
10 *potential future employment.*

11 64202. *On and after _____, the committee shall determine and*
12 *allocate the career pathways investment credit ceiling. The*
13 *committee may reserve a portion of anticipated career pathways*
14 *investment credit ceiling for subsequent taxable years. For*
15 *purposes of this section, the committee shall do all of the following:*

16 (a) *Allocate the career pathways investment credit ceiling on*
17 *a regular basis consisting of two or more periods in a calendar*
18 *year in which applications may be filed and considered.*

19 (b) (1) *Establish application filing deadlines, the maximum*
20 *amount of career pathways investment credit ceiling that the*
21 *committee may allocate for that period, and the approximate date*
22 *on which the allocations are made.*

23 (2) *The committee may contract with other entities to aid in the*
24 *processing and review of applications.*

25 (c) (1) *Give priority in allocating tax credits to the following:*

26 (A) *Applicants in communities that have an unemployment rate*
27 *higher than the statewide unemployment rate, as determined by*
28 *the United States Census, and a high school graduation rate lower*
29 *than the statewide high school graduation rate, as determined by*
30 *the Department of Education using the California Longitudinal*
31 *Pupil Achievement Data System.*

32 (B) *Applicants with proportions of private funding support that*
33 *exceed the one-to-one match requirement described in paragraph*
34 *(1) of subdivision (e).*

35 (C) *Applicants that are articulated with postsecondary*
36 *certificate and degree programs in their region.*

37 (2) *To the maximum extent practicable, subject to paragraph*
38 *(1), give priority in allocating career pathways investment credits*
39 *to applicants serving socioeconomically diverse student*
40 *populations and on a geographically equitable basis.*

1 (3) *The committee shall not give priority to any applicant by*
2 *virtue of the date of submission of its application, except to allocate*
3 *credits where two or more applicants have the same rating.*

4 (d) *Only allocate the career pathways investment credit ceiling*
5 *to an applicant that enters into an enforceable contract or*
6 *memorandum of understanding with the committee to comply with*
7 *the requirements of this part, Sections 17057.6 and 23610.5 of the*
8 *Revenue and Taxation Code, any applicable state laws, and any*
9 *additional requirements the committee deems necessary or*
10 *appropriate to serve the purposes of this part. The contract or*
11 *memorandum of understanding shall also provide for legal action*
12 *to obtain specified performance or monetary damages for breach*
13 *of contract and shall require regular programmatic audits.*

14 (e) *Adopt allocation criteria that awards credits to applicants*
15 *that demonstrate all of the following:*

16 (1) *At least a one-to-one match of private to public investment*
17 *in middle school and high school programs that create career*
18 *pathways or similar programs.*

19 (2) *The effectiveness of the career pathway program toward*
20 *preparing students for productive, high-wage employment in*
21 *growing or high-need sectors of the California economy.*
22 *Effectiveness criteria shall include:*

23 (A) *Pathway completion rates.*

24 (B) *High school graduation rates.*

25 (C) *Percentages of students attaining an industry certification.*

26 (D) *Percentages of students transitioning successfully to*
27 *postsecondary education.*

28 (E) *Employment and earnings after high school.*

29 (3) *The level of the applicant's investment in, oversight of, and*
30 *ability to leverage and sustain current career pathways programs*
31 *and current career technical education programs.*

32 (f) *Develop and provide forms for the purposes of informing*
33 *potential applicants and taxpayers of the purposes of this part.*

34 (g) (1) *Certify to each applicant the amount of the career*
35 *pathways credit ceiling allocated to it for the taxable year, or the*
36 *reserved amount for the succeeding year.*

37 (2) *An applicant shall provide a copy of the certification*
38 *provided by the committee to the taxpayer.*

39 64203. *On and after _____, the committee shall, in consultation*
40 *with the State Department of Education, develop and provide forms*

1 for use by applicants and adopt uniform procedures for submission
2 and review of applications. The application shall include, but not
3 be limited to, the following:

4 (a) A contract or memorandum of understanding between the
5 applicant and the taxpayer that includes, but is not limited to, the
6 following:

7 (1) A clear and comprehensive plan for each middle school or
8 high school program that creates career pathways.

9 (2) A description of the nature and value of the taxpayer's
10 support for career exploration activities, curriculum and
11 professional development programs, and middle school or high
12 school programs that create career pathways that integrate
13 academic and technical learning to prepare pupils for both college
14 and careers. The support may include any of the following:

15 (A) Equipment or instructional materials.

16 (B) Employees to provide instruction, in partnership with
17 credentialed teachers employed by the school district, at the
18 schoolsite.

19 (C) Opportunities for pupils to be mentored by, or to shadow,
20 employees at a partnering private entity.

21 (D) Paid or unpaid internships.

22 (E) Paid jobs.

23 (F) Teacher externships.

24 (b) Details about the strength and relevance of the education
25 plan to the needs of industry for qualified technical employees
26 applicable to the economic development needs of the region in
27 which the local education agency and partnering private entity
28 are located.

29 (c) Projections of program participant enrollment.

30 (d) The method by which accountability for program participant
31 enrollments and outcomes will be maintained. Outcomes shall
32 include the criteria listed in paragraph (2) of subdivision (e) of
33 Section 64202.

34 (e) Any other information deemed relevant by the committee.

35 64204. (a) The committee may charge a fee for the submission
36 of applications for allocations of the current taxable year's career
37 pathways investment credit ceiling, reservation of the following
38 year's career pathways investment credit ceiling, or both. If the
39 committee chooses to impose a fee, it shall establish and charge
40 fees in an amount which it determines are reasonably sufficient to

1 cover the costs of the committee, the State Board of Equalization,
2 and the Franchise Tax Board in carrying out the administrative
3 responsibilities required by this part.

4 (b) Fees collected pursuant to this subdivision shall be deposited
5 in the Tax Credit Allocation Fee Account, which is hereby created
6 in the State Treasury, and shall be available, upon appropriation
7 by the Legislature to cover the administrative costs of the
8 committee, the State Board of Equalization, and the Franchise Tax
9 Board in administering this part.

10 (c) Until the time sufficient fee revenue is received by the
11 committee to fully cover the administrative costs of administering
12 this part, the committee may borrow moneys as may be required
13 for the purposes of meeting necessary administrative expenses of
14 the committee in administering this part. Any loan made to the
15 committee pursuant to this section shall be repayable solely from
16 the moneys appropriated to the committee from the Tax Credit
17 Allocation Fee Account and shall not constitute a general
18 obligation for which the faith and credit of the state are pledged.

19 SEC. 2. Section 6902.6 is added to the Revenue and Taxation
20 Code, to read:

21 6902.6. (a) A qualified taxpayer may, in lieu of claiming the
22 credit allowed by Section 17057.6 or 23610.5, make an irrevocable
23 election to apply the credit amount against sales tax reimbursement
24 paid and use taxes paid to a retailer by the qualified taxpayer in
25 accordance with this section.

26 (b) For purposes of this section:

27 (1) "Credit amount" means an amount equal to the tax credit
28 amount that would otherwise have been allowed to a qualified
29 taxpayer pursuant to Section 17057.6 or 23610.5 but for the
30 election made pursuant to this section.

31 (2) "Qualified taxpayer" means a person who is a qualified
32 taxpayer within the meaning of subdivision (b) of Section 17057.6
33 or 23610.5.

34 (c) (1) A qualified taxpayer or affiliate shall submit to the board
35 an irrevocable election, in a form as prescribed by the board,
36 which shall include, but not be limited to, the following:

37 (A) The credit amount.

38 (B) The amount of sales tax reimbursement and use taxes paid
39 on or before January 1, 2011.

1 (C) A copy of the certification issued by the local educational
2 agency to the qualified taxpayer under Section 64202 of the
3 Education Code.

4 (2) The election shall be filed on or before the date on which
5 the qualified taxpayer would first be allowed to claim a credit
6 pursuant to Section 17057.6 or 23610.5 on its tax return.

7 (d) (1) The claimant may elect to obtain a refund of sales and
8 use taxes paid during the period described in subparagraph (B)
9 of paragraph (1) of subdivision (c). If the claimant elects to obtain
10 a refund of sales and use taxes, the claimant shall file a claim for
11 refund with the irrevocable election described in subdivision (a).
12 The refund amount shall not exceed the credit amount.

13 (2) No interest shall be paid on any amount refunded or credited
14 pursuant to paragraph (1).

15 (3) If the claimant does not elect to obtain a refund or in the
16 case where the credit amount exceeds the amount of its claim for
17 refund for the sales and use taxes, the claimant may offset any
18 remaining credit amount against the sales and use taxes until the
19 credit is exhausted.

20 (e) Section 6961 shall apply to any refund, or part thereof, that
21 is erroneously made and any credit, or part thereof, that is
22 erroneously allowed pursuant to this section.

23 (f) The board shall provide an annual listing to the California
24 Tax Credit Allocation Committee and the Franchise Tax Board,
25 in a form and manner mutually agreed upon, of the qualified
26 taxpayers who, during the year, have made an irrevocable election
27 pursuant to this section and the credit amount claimed by each
28 qualified taxpayer.

29 SEC. 3. Section 17053.74 of the Revenue and Taxation Code
30 is amended to read:

31 17053.74. (a) There shall be allowed a credit against the “net
32 tax” (as defined in Section 17039) to a taxpayer who employs a
33 qualified employee in an enterprise zone during the taxable year.
34 The credit shall be equal to the sum of each of the following:

35 (1) Fifty percent of qualified wages in the first year of
36 employment.

37 (2) Forty percent of qualified wages in the second year of
38 employment.

39 (3) Thirty percent of qualified wages in the third year of
40 employment.

1 (4) Twenty percent of qualified wages in the fourth year of
2 employment.

3 (5) Ten percent of qualified wages in the fifth year of
4 employment.

5 (b) For purposes of this section:

6 (1) “Qualified wages” means:

7 (A) (i) Except as provided in clause (ii), that portion of wages
8 paid or incurred by the taxpayer during the taxable year to qualified
9 employees that does not exceed 150 percent of the minimum wage.

10 (ii) For up to 1,350 qualified employees who are employed by
11 the taxpayer in the Long Beach Enterprise Zone in aircraft
12 manufacturing activities described in Codes 3721 to 3728,
13 inclusive, and Code 3812 of the Standard Industrial Classification
14 (SIC) Manual published by the United States Office of
15 Management and Budget, 1987 edition, “qualified wages” means
16 that portion of hourly wages that does not exceed 202 percent of
17 the minimum wage.

18 (B) Wages received during the 60-month period beginning with
19 the first day the employee commences employment with the
20 taxpayer. Reemployment in connection with any increase, including
21 a regularly occurring seasonal increase, in the trade or business
22 operations of the taxpayer does not constitute commencement of
23 employment for purposes of this section.

24 (C) Qualified wages do not include any wages paid or incurred
25 by the taxpayer on or after the zone expiration date. However,
26 wages paid or incurred with respect to qualified employees who
27 are employed by the taxpayer within the enterprise zone within
28 the 60-month period prior to the zone expiration date shall continue
29 to qualify for the credit under this section after the zone expiration
30 date, in accordance with all provisions of this section applied as
31 if the enterprise zone designation were still in existence and
32 binding.

33 (2) “Minimum wage” means the wage established by the
34 Industrial Welfare Commission as provided for in Chapter 1
35 (commencing with Section 1171) of Part 4 of Division 2 of the
36 Labor Code.

37 (3) “Zone expiration date” means the date the enterprise zone
38 designation expires, is no longer binding, or becomes inoperative.

39 (4) (A) “Qualified employee” means an individual who meets
40 all of the following requirements:

- 1 (i) At least 90 percent of whose services for the taxpayer during
2 the taxable year are directly related to the conduct of the taxpayer's
3 trade or business located in an enterprise zone.
- 4 (ii) Performs at least 50 percent of his or her services for the
5 taxpayer during the taxable year in an enterprise zone.
- 6 (iii) Is hired by the taxpayer after the date of original designation
7 of the area in which services were performed as an enterprise zone.
- 8 (iv) Is any of the following:
 - 9 (I) Immediately preceding the qualified employee's
10 commencement of employment with the taxpayer, was a person
11 eligible for services under the federal Job Training Partnership
12 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
13 or is eligible to receive, subsidized employment, training, or
14 services funded by the federal Job Training Partnership Act, or its
15 successor.
 - 16 (II) Immediately preceding the qualified employee's
17 commencement of employment with the taxpayer, was a person
18 eligible to be a voluntary or mandatory registrant under the Greater
19 Avenues for Independence Act of 1985 (GAIN) provided for
20 pursuant to Article 3.2 (commencing with Section 11320) of
21 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
22 Code, or its successor.
 - 23 (III) Immediately preceding the qualified employee's
24 commencement of employment with the taxpayer, was an
25 economically disadvantaged individual 14 years of age or older.
 - 26 (IV) Immediately preceding the qualified employee's
27 commencement of employment with the taxpayer, was a dislocated
28 worker who meets any of the following:
 - 29 ~~(aa)~~
 - 30 (ia) Has been terminated or laid off or who has received a notice
31 of termination or layoff from employment, is eligible for or has
32 exhausted entitlement to unemployment insurance benefits, and
33 is unlikely to return to his or her previous industry or occupation.
 - 34 ~~(bb)~~
 - 35 (ib) Has been terminated or has received a notice of termination
36 of employment as a result of any permanent closure or any
37 substantial layoff at a plant, facility, or enterprise, including an
38 individual who has not received written notification but whose
39 employer has made a public announcement of the closure or layoff.
 - 40 ~~(cc)~~

1 *(ic)* Is long-term unemployed and has limited opportunities for
2 employment or reemployment in the same or a similar occupation
3 in the area in which the individual resides, including an individual
4 55 years of age or older who may have substantial barriers to
5 employment by reason of age.

6 ~~(dd)~~

7 *(id)* Was self-employed (including farmers and ranchers) and
8 is unemployed as a result of general economic conditions in the
9 community in which he or she resides or because of natural
10 disasters.

11 ~~(ee)~~

12 *(ie)* Was a civilian employee of the Department of Defense
13 employed at a military installation being closed or realigned under
14 the Defense Base Closure and Realignment Act of 1990.

15 ~~(ff)~~

16 *(if)* Was an active member of the armed forces or National Guard
17 as of September 30, 1990, and was either involuntarily separated
18 or separated pursuant to a special benefits program.

19 ~~(gg)~~

20 *(ig)* Is a seasonal or migrant worker who experiences chronic
21 seasonal unemployment and underemployment in the agriculture
22 industry, aggravated by continual advancements in technology and
23 mechanization.

24 ~~(hh)~~

25 *(ih)* Has been terminated or laid off, or has received a notice of
26 termination or layoff, as a consequence of compliance with the
27 Clean Air Act.

28 (V) Immediately preceding the qualified employee's
29 commencement of employment with the taxpayer, was a disabled
30 individual who is eligible for or enrolled in, or has completed a
31 state rehabilitation plan or is a service-connected disabled veteran,
32 veteran of the Vietnam era, or veteran who is recently separated
33 from military service.

34 (VI) Immediately preceding the qualified employee's
35 commencement of employment with the taxpayer, was an
36 ex-offender. ~~An individual shall be treated as convicted if he or~~
37 ~~she was placed on probation by a state court without a finding of~~
38 ~~guilt~~ *An ex-offender means an individual who has been convicted*
39 *of a felony or a misdemeanor offense punishable by incarceration*
40 *or a person charged with a felony offense or a misdemeanor offense*

1 *punishable by incarceration but placed on probation by a state*
 2 *court without a finding of guilt. Ex-offender shall not include an*
 3 *individual whose record has been expunged.*

4 (VII) Immediately preceding the qualified employee's
 5 commencement of employment with the taxpayer, was a person
 6 eligible for or a recipient of any of the following:

7 ~~(aa)~~

8 *(ia) Federal Supplemental Security Income benefits.*

9 ~~(bb) Aid to Families with Dependent Children.~~

10 *(ib) Temporary Assistance for Needy Families.*

11 ~~(cc)~~

12 *(ic) Food stamps.*

13 ~~(dd)~~

14 *(id) State and local general assistance.*

15 (VIII) Immediately preceding the qualified employee's
 16 commencement of employment with the taxpayer, was a member
 17 of a federally recognized Indian tribe, band, or other group of
 18 Native American descent.

19 (IX) Immediately preceding the qualified employee's
 20 commencement of employment with the taxpayer, was a resident
 21 of a targeted employment area, as defined in Section 7072 of the
 22 Government Code.

23 (X) An employee who qualified the taxpayer for the enterprise
 24 zone hiring credit under former Section 17053.8 or the program
 25 area hiring credit under former Section 17053.11.

26 (XI) Immediately preceding the qualified employee's
 27 commencement of employment with the taxpayer, was a member
 28 of a targeted group, as defined in Section 51(d) of the Internal
 29 Revenue Code, or its successor.

30 (B) Priority for employment shall be provided to an individual
 31 who is enrolled in a qualified program under the federal ~~Job~~
 32 ~~Training Partnership Workforce Investment Act~~ or the ~~Greater~~
 33 ~~Avenues for Independence Act of 1985 California Work~~
 34 ~~Opportunity and Responsibility to Kids Act (CalWORKs)~~ or who
 35 is eligible as a member of a targeted group under the Work
 36 Opportunity Tax Credit (Section 51 of the Internal Revenue Code),
 37 or its successor.

38 (5) "Taxpayer" means a person or entity engaged in a trade or
 39 business within an enterprise zone designated pursuant to Chapter
 40 12.8 (commencing with Section 7070) of the Government Code.

1 (6) “Seasonal employment” means employment by a taxpayer
2 that has regular and predictable substantial reductions in trade or
3 business operations.

4 (c) The taxpayer shall do both of the following:

5 (1) Obtain from the Employment Development Department, as
6 permitted by federal law, the local county or city ~~Job Training~~
7 ~~Partnership~~ *Workforce Investment* Act administrative entity, the
8 local county ~~GAIN~~ *CalWORKs* office or social services agency,
9 or the local government administering the enterprise zone, a
10 certification which provides that a qualified employee meets the
11 eligibility requirements specified in clause (iv) of subparagraph
12 (A) of paragraph (4) of subdivision (b). The Employment
13 Development Department may provide preliminary screening and
14 referral to a certifying agency. The Employment Development
15 Department shall develop a form for this purpose. The Department
16 of Housing and Community Development shall develop regulations
17 governing the issuance of certificates by local governments
18 pursuant to subdivision (a) of Section 7086 of the Government
19 Code.

20 (2) Retain a copy of the certification and provide it upon request
21 to the Franchise Tax Board.

22 (d) (1) For purposes of this section:

23 (A) All employees of trades or businesses, which are not
24 incorporated, that are under common control shall be treated as
25 employed by a single taxpayer.

26 (B) The credit, if any, allowable by this section with respect to
27 each trade or business shall be determined by reference to its
28 proportionate share of the expense of the qualified wages giving
29 rise to the credit, and shall be allocated in that manner.

30 (C) Principles that apply in the case of controlled groups of
31 corporations, as specified in subdivision (d) of Section 23622.7,
32 shall apply with respect to determining employment.

33 (2) If an employer acquires the major portion of a trade or
34 business of another employer ~~(hereinafter~~ *hereafter* in this
35 paragraph referred to as the “predecessor”) or the major portion
36 of a separate unit of a trade or business of a predecessor, then, for
37 purposes of applying this section (other than subdivision (e)) for
38 any calendar year ending after that acquisition, the employment
39 relationship between a qualified employee and an employer shall

1 not be treated as terminated if the employee continues to be
2 employed in that trade or business.

3 (e) (1) (A) If the employment, other than seasonal employment,
4 of any qualified employee, with respect to whom qualified wages
5 are taken into account under subdivision (a) is terminated by the
6 taxpayer at any time during the first 270 days of that employment
7 (whether or not consecutive) or before the close of the 270th
8 calendar day after the day in which that employee completes 90
9 days of employment with the taxpayer, the tax imposed by this
10 part for the taxable year in which that employment is terminated
11 shall be increased by an amount equal to the credit allowed under
12 subdivision (a) for that taxable year and all prior taxable years
13 attributable to qualified wages paid or incurred with respect to that
14 employee.

15 (B) If the seasonal employment of any qualified employee, with
16 respect to whom qualified wages are taken into account under
17 subdivision (a) is not continued by the taxpayer for a period of
18 270 days of employment during the 60-month period beginning
19 with the day the qualified employee commences seasonal
20 employment with the taxpayer, the tax imposed by this part, for
21 the taxable year that includes the 60th month following the month
22 in which the qualified employee commences seasonal employment
23 with the taxpayer, shall be increased by an amount equal to the
24 credit allowed under subdivision (a) for that taxable year and all
25 prior taxable years attributable to qualified wages paid or incurred
26 with respect to that qualified employee.

27 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
28 any of the following:

29 (i) A termination of employment of a qualified employee who
30 voluntarily leaves the employment of the taxpayer.

31 (ii) A termination of employment of a qualified employee who,
32 before the close of the period referred to in paragraph (1), becomes
33 disabled and unable to perform the services of that employment,
34 unless that disability is removed before the close of that period
35 and the taxpayer fails to offer reemployment to that employee.

36 (iii) A termination of employment of a qualified employee, if
37 it is determined that the termination was due to the misconduct (as
38 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
39 the California Code of Regulations) of that employee.

1 (iv) A termination of employment of a qualified employee due
2 to a substantial reduction in the trade or business operations of the
3 taxpayer.

4 (v) A termination of employment of a qualified employee, if
5 that employee is replaced by other qualified employees so as to
6 create a net increase in both the number of employees and the
7 hours of employment.

8 (B) Subparagraph (B) of paragraph (1) shall not apply to any
9 of the following:

10 (i) A failure to continue the seasonal employment of a qualified
11 employee who voluntarily fails to return to the seasonal
12 employment of the taxpayer.

13 (ii) A failure to continue the seasonal employment of a qualified
14 employee who, before the close of the period referred to in
15 subparagraph (B) of paragraph (1), becomes disabled and unable
16 to perform the services of that seasonal employment, unless that
17 disability is removed before the close of that period and the
18 taxpayer fails to offer seasonal employment to that qualified
19 employee.

20 (iii) A failure to continue the seasonal employment of a qualified
21 employee, if it is determined that the failure to continue the
22 seasonal employment was due to the misconduct (as defined in
23 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
24 Code of Regulations) of that qualified employee.

25 (iv) A failure to continue seasonal employment of a qualified
26 employee due to a substantial reduction in the regular seasonal
27 trade or business operations of the taxpayer.

28 (v) A failure to continue the seasonal employment of a qualified
29 employee, if that qualified employee is replaced by other qualified
30 employees so as to create a net increase in both the number of
31 seasonal employees and the hours of seasonal employment.

32 (C) For purposes of paragraph (1), the employment relationship
33 between the taxpayer and a qualified employee shall not be treated
34 as terminated by reason of a mere change in the form of conducting
35 the trade or business of the taxpayer, if the qualified employee
36 continues to be employed in that trade or business and the taxpayer
37 retains a substantial interest in that trade or business.

38 (3) Any increase in tax under paragraph (1) shall not be treated
39 as tax imposed by this part for purposes of determining the amount
40 of any credit allowable under this part.

1 (f) In the case of an estate or trust, both of the following apply:

2 (1) The qualified wages for any taxable year shall be apportioned
3 between the estate or trust and the beneficiaries on the basis of the
4 income of the estate or trust allocable to each.

5 (2) Any beneficiary to whom any qualified wages have been
6 apportioned under paragraph (1) shall be treated, for purposes of
7 this part, as the employer with respect to those wages.

8 (g) For purposes of this section, “enterprise zone” means an
9 area designated as an enterprise zone pursuant to Chapter 12.8
10 (commencing with Section 7070) of Division 7 of Title 1 of the
11 Government Code.

12 (h) The credit allowable under this section shall be reduced by
13 the credit allowed under Sections 17053.10, 17053.17 and 17053.46
14 claimed for the same employee. The credit shall also be reduced
15 by the federal credit allowed under Section 51 of the Internal
16 Revenue Code.

17 In addition, any deduction otherwise allowed under this part for
18 the wages or salaries paid or incurred by the taxpayer upon which
19 the credit is based shall be reduced by the amount of the credit,
20 prior to any reduction required by subdivision (i) or (j).

21 (i) In the case where the credit otherwise allowed under this
22 section exceeds the “net tax” for the taxable year, that portion of
23 the credit that exceeds the “net tax” may be carried over and added
24 to the credit, if any, in succeeding taxable years, until the credit is
25 exhausted. The credit shall be applied first to the earliest taxable
26 years possible.

27 (j) (1) The amount of the credit otherwise allowed under this
28 section and Section 17053.70, including any credit carryover from
29 prior years, that may reduce the “net tax” for the taxable year shall
30 not exceed the amount of tax which would be imposed on the
31 taxpayer’s business income attributable to the enterprise zone
32 determined as if that attributable income represented all of the
33 income of the taxpayer subject to tax under this part.

34 (2) Attributable income shall be that portion of the taxpayer’s
35 California source business income that is apportioned to the
36 enterprise zone. For that purpose, the taxpayer’s business income
37 attributable to sources in this state first shall be determined in
38 accordance with Chapter 17 (commencing with Section 25101) of
39 Part 11. That business income shall be further apportioned to the
40 enterprise zone in accordance with Article 2 (commencing with

1 Section 25120) of Chapter 17 of Part 11, modified for purposes
2 of this section in accordance with paragraph (3).

3 (3) Business income shall be apportioned to the enterprise zone
4 by multiplying the total California business income of the taxpayer
5 by a fraction, the numerator of which is the property factor plus
6 the payroll factor, and the denominator of which is two. For
7 purposes of this paragraph:

8 (A) The property factor is a fraction, the numerator of which is
9 the average value of the taxpayer's real and tangible personal
10 property owned or rented and used in the enterprise zone during
11 the taxable year, and the denominator of which is the average value
12 of all the taxpayer's real and tangible personal property owned or
13 rented and used in this state during the taxable year.

14 (B) The payroll factor is a fraction, the numerator of which is
15 the total amount paid by the taxpayer in the enterprise zone during
16 the taxable year for compensation, and the denominator of which
17 is the total compensation paid by the taxpayer in this state during
18 the taxable year.

19 (4) The portion of any credit remaining, if any, after application
20 of this subdivision, shall be carried over to succeeding taxable
21 years, as if it were an amount exceeding the "net tax" for the
22 taxable year, as provided in subdivision (i).

23 (k) The changes made to this section by the act adding this
24 subdivision shall apply to taxable years beginning on or after
25 January 1, 1997.

26 (l) *The changes made to this section by the act adding this*
27 *subdivision shall apply to taxable years beginning on or after*
28 *January 1, 2011.*

29 *SEC. 4. Section 17057.6 is added to the Revenue and Taxation*
30 *Code, to read:*

31 *17057.6. (a) For taxable years beginning on or after January*
32 *1, 2011, there shall be allowed to a qualified taxpayer as a credit*
33 *against the "net tax," as defined in Section 17039, an amount*
34 *equal to that allocated to a local educational agency by the*
35 *California Tax Credit Allocation Committee pursuant to Section*
36 *64202 of the Education Code.*

37 *(b) For purposes of this section a "qualified taxpayer" means*
38 *a taxpayer, as defined in Section 64201 of the Education Code,*
39 *who is either the sole owner if an individual, partners if the*

1 taxpayer is a partnership, or shareholders if the taxpayer is an
2 “S” corporation.

3 (c) No credit shall be allowed pursuant to this section unless
4 the qualified taxpayer attaches a copy of certification provided to
5 the qualified taxpayer pursuant to Section 64202 of the Education
6 Code.

7 (d) (1) Subject to paragraph (2), the aggregate amount of
8 credits that may be allocated in any fiscal year pursuant to this
9 section and Section 23610.5 shall be an amount equal to the sum
10 of the following:

11 (A) _____ dollars (\$_____) in credits for the 2011–12 fiscal year
12 and each fiscal year thereafter.

13 (B) The unused allocation credit amount, if any, for the
14 preceding fiscal year.

15 (C) The amount of credits allocated pursuant to this section
16 and Section 23610.5 returned in the fiscal year.

17 (2) The aggregate amount of credits allocated in any fiscal year
18 pursuant to this section and Section 23610.5 shall not exceed _____
19 dollars (\$_____) per fiscal year.

20 (e) In the case where the credit allowed under this section
21 exceeds the “net tax,” the excess credit may be carried over to
22 reduce the “net tax” in the following taxable year, and succeeding
23 taxable years, if necessary, until the credit has been exhausted.

24 SEC. 5. Section 23610.5 is added to the Revenue and Taxation
25 Code, to read:

26 23610.5. (a) For taxable years beginning on or after January
27 1, 2011, there shall be allowed to a qualified taxpayer as a credit
28 against the “tax,” as defined in Section 23036, an amount equal
29 to that allocated to a local educational agency by the California
30 Tax Credit Allocation Committee pursuant to Section 64202 of the
31 Education Code.

32 (b) For purposes of this section a “qualified taxpayer” means
33 a taxpayer, as defined in Section 64201 of the Education Code,
34 who is either the sole owner if an individual, partners if the
35 taxpayer is a partnership, or shareholders if the taxpayer is an
36 “S” corporation.

37 (c) No credit shall be allowed pursuant to this section unless
38 the qualified taxpayer attaches a copy of certification provided to
39 the qualified taxpayer pursuant to Section 64202 of the Education
40 Code.

1 (d) (1) Subject to paragraph (2), the aggregate amount of
2 credits that may be allocated in any fiscal year pursuant to this
3 section and Section 17057.6 shall be an amount equal to the sum
4 of the following:

5 (A) _____ dollars (\$_____) in credits for the 2011–12 fiscal year
6 and each fiscal year thereafter.

7 (B) The unused allocation credit amount, if any, for the
8 preceding fiscal year.

9 (C) The amount of credits allocated pursuant to this section
10 and Section 17057.6 returned in the fiscal year.

11 (2) The aggregate amount of credits allocated in any fiscal year
12 pursuant to this section and Section 17057.6 shall not exceed _____
13 dollars (\$_____) per fiscal year.

14 (e) In the case where the credit allowed under this section
15 exceeds the “net tax,” the excess credit may be carried over to
16 reduce the “net tax” in the following taxable year, and succeeding
17 taxable years, if necessary, until the credit has been exhausted.

18 SEC. 6. Section 23634 of the Revenue and Taxation Code is
19 amended to read:

20 23634. (a) For each taxable year beginning on or after January
21 1, 1998, there shall be allowed a credit against the “tax” (as defined
22 by Section 23036) to a qualified taxpayer who employs a qualified
23 employee in a targeted tax area during the taxable year. The credit
24 shall be equal to the sum of each of the following:

25 (1) Fifty percent of qualified wages in the first year of
26 employment.

27 (2) Forty percent of qualified wages in the second year of
28 employment.

29 (3) Thirty percent of qualified wages in the third year of
30 employment.

31 (4) Twenty percent of qualified wages in the fourth year of
32 employment.

33 (5) Ten percent of qualified wages in the fifth year of
34 employment.

35 (b) For purposes of this section:

36 (1) “Qualified wages” means:

37 (A) That portion of wages paid or incurred by the qualified
38 taxpayer during the taxable year to qualified employees that does
39 not exceed 150 percent of the minimum wage.

1 (B) Wages received during the 60-month period beginning with
2 the first day the employee commences employment with the
3 qualified taxpayer. Reemployment in connection with any increase,
4 including a regularly occurring seasonal increase, in the trade or
5 business operations of the qualified taxpayer does not constitute
6 commencement of employment for purposes of this section.

7 (C) Qualified wages do not include any wages paid or incurred
8 by the qualified taxpayer on or after the targeted tax area expiration
9 date. However, wages paid or incurred with respect to qualified
10 employees who are employed by the qualified taxpayer within the
11 targeted tax area within the 60-month period prior to the targeted
12 tax area expiration date shall continue to qualify for the credit
13 under this section after the targeted tax area expiration date, in
14 accordance with all provisions of this section applied as if the
15 targeted tax area designation were still in existence and binding.

16 (2) “Minimum wage” means the wage established by the
17 Industrial Welfare Commission as provided for in Chapter 1
18 (commencing with Section 1171) of Part 4 of Division 2 of the
19 Labor Code.

20 (3) “Targeted tax area expiration date” means the date the
21 targeted tax area designation expires, is revoked, is no longer
22 binding, or becomes inoperative.

23 (4) (A) “Qualified employee” means an individual who meets
24 all of the following requirements:

25 (i) At least 90 percent of his or her services for the qualified
26 taxpayer during the taxable year are directly related to the conduct
27 of the qualified taxpayer’s trade or business located in a targeted
28 tax area.

29 (ii) Performs at least 50 percent of his or her services for the
30 qualified taxpayer during the taxable year in a targeted tax area.

31 (iii) Is hired by the qualified taxpayer after the date of original
32 designation of the area in which services were performed as a
33 targeted tax area.

34 (iv) Is any of the following:

35 (I) Immediately preceding the qualified employee’s
36 commencement of employment with the qualified taxpayer, was
37 a person eligible for services under the federal Job Training
38 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
39 who is receiving, or is eligible to receive, subsidized employment,

1 training, or services funded by the federal Job Training Partnership
2 Act, or its successor.

3 (II) Immediately preceding the qualified employee's
4 commencement of employment with the qualified taxpayer, was
5 a person eligible to be a voluntary or mandatory registrant under
6 the Greater Avenues for Independence Act of 1985 (GAIN)
7 provided for pursuant to Article 3.2 (commencing with Section
8 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
9 Institutions Code, or its successor.

10 (III) Immediately preceding the qualified employee's
11 commencement of employment with the qualified taxpayer, was
12 an economically disadvantaged individual 14 years of age or older.

13 (IV) Immediately preceding the qualified employee's
14 commencement of employment with the qualified taxpayer, was
15 a dislocated worker who meets any of the following:

16 ~~(aa)~~

17 *(ia)* Has been terminated or laid off or who has received a notice
18 of termination or layoff from employment, is eligible for or has
19 exhausted entitlement to unemployment insurance benefits, and
20 is unlikely to return to his or her previous industry or occupation.

21 ~~(bb)~~

22 *(ib)* Has been terminated or has received a notice of termination
23 of employment as a result of any permanent closure or any
24 substantial layoff at a plant, facility, or enterprise, including an
25 individual who has not received written notification but whose
26 employer has made a public announcement of the closure or layoff.

27 ~~(cc)~~

28 *(ic)* Is long-term unemployed and has limited opportunities for
29 employment or reemployment in the same or a similar occupation
30 in the area in which the individual resides, including an individual
31 55 years of age or older who may have substantial barriers to
32 employment by reason of age.

33 ~~(dd)~~

34 *(id)* Was self-employed (including farmers and ranchers) and
35 is unemployed as a result of general economic conditions in the
36 community in which he or she resides or because of natural
37 disasters.

38 ~~(ee)~~

1 (ie) Was a civilian employee of the Department of Defense
2 employed at a military installation being closed or realigned under
3 the Defense Base Closure and Realignment Act of 1990.

4 ~~(ff)~~

5 (if) Was an active member of the Armed Forces or National
6 Guard as of September 30, 1990, and was either involuntarily
7 separated or separated pursuant to a special benefits program.

8 ~~(gg)~~

9 (ig) Is a seasonal or migrant worker who experiences chronic
10 seasonal unemployment and underemployment in the agriculture
11 industry, aggravated by continual advancements in technology and
12 mechanization.

13 ~~(hh)~~

14 (ih) Has been terminated or laid off, or has received a notice of
15 termination or layoff, as a consequence of compliance with the
16 Clean Air Act.

17 (V) Immediately preceding the qualified employee's
18 commencement of employment with the qualified taxpayer, was
19 a disabled individual who is eligible for or enrolled in, or has
20 completed a state rehabilitation plan or is a service-connected
21 disabled veteran, veteran of the Vietnam era, or veteran who is
22 recently separated from military service.

23 (VI) Immediately preceding the qualified employee's
24 commencement of employment with the qualified taxpayer, was
25 an ex-offender. ~~An individual shall be treated as convicted if he~~
26 ~~or she was placed on probation by a state court without a finding~~
27 ~~of guilt. An ex-offender means an individual who has been convicted~~
28 ~~of a felony or a misdemeanor offense punishable by incarceration~~
29 ~~or an individual charged with a felony offense or a misdemeanor~~
30 ~~offense punishable by incarceration but placed on probation by a~~
31 ~~state court without a finding of guilt. Ex-offender does not include~~
32 ~~an individual whose record has been expunged.~~

33 (VII) Immediately preceding the qualified employee's
34 commencement of employment with the qualified taxpayer, was
35 a person eligible for or a recipient of any of the following:

36 ~~(aa)~~

37 (ia) Federal Supplemental Security Income benefits.

38 ~~(bb) Aid to Families with Dependent Children.~~

39 (ib) Temporary Assistance for Needy Families.

40 ~~(cc)~~

1 (ic) Food stamps.

2 ~~(dd)~~

3 (id) State and local general assistance.

4 (VIII) Immediately preceding the qualified employee's
5 commencement of employment with the qualified taxpayer, was
6 a member of a federally recognized Indian tribe, band, or other
7 group of Native American descent.

8 (IX) Immediately preceding the qualified employee's
9 commencement of employment with the qualified taxpayer, was
10 a resident of a targeted tax area.

11 (X) Immediately preceding the qualified employee's
12 commencement of employment with the taxpayer, was a member
13 of a targeted group, as defined in Section 51(d) of the Internal
14 Revenue Code, or its successor.

15 (B) Priority for employment shall be provided to an individual
16 who is enrolled in a qualified program under the federal ~~Job~~
17 ~~Training Partnership Workforce Training Act~~ or the ~~Greater~~
18 ~~Avenues for Independence Act of 1985~~ *California Work*
19 *Opportunity and Responsibility to Kids Act (CalWORKs)* or who
20 is eligible as a member of a targeted group under the Work
21 Opportunity Tax Credit (Section 51 of the Internal Revenue Code),
22 or its successor.

23 (5) (A) "Qualified taxpayer" means a person or entity that meets
24 both of the following:

25 (i) Is engaged in a trade or business within a targeted tax area
26 designated pursuant to Chapter 12.93 (commencing with Section
27 7097) of Division 7 of Title 1 of the Government Code.

28 (ii) Is engaged in those lines of business described in Codes
29 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
30 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
31 of the Standard Industrial Classification (SIC) Manual published
32 by the United States Office of Management and Budget, 1987
33 edition.

34 (B) In the case of any passthrough entity, the determination of
35 whether a taxpayer is a qualified taxpayer under this section shall
36 be made at the entity level and any credit under this section or
37 Section 17053.34 shall be allowed to the passthrough entity and
38 passed through to the partners or shareholders in accordance with
39 applicable provisions of this part or Part 10 (commencing with

1 Section 17001). For purposes of this subparagraph, the term
2 “passthrough entity” means any partnership or S corporation.

3 (6) “Seasonal employment” means employment by a qualified
4 taxpayer that has regular and predictable substantial reductions in
5 trade or business operations.

6 (c) If the qualified taxpayer is allowed a credit for qualified
7 wages pursuant to this section, only one credit shall be allowed to
8 the taxpayer under this part with respect to those qualified wages.

9 (d) The qualified taxpayer shall do both of the following:

10 (1) Obtain from the Employment Development Department, as
11 permitted by federal law, the local county or city ~~Job Training~~
12 ~~Partnership~~ *Workforce Investment Act* administrative entity, the
13 local county ~~GAIN~~ *CalWORKs* office or social services agency,
14 or the local government administering the targeted tax area, a
15 certification that provides that a qualified employee meets the
16 eligibility requirements specified in clause (iv) of subparagraph
17 (A) of paragraph (4) of subdivision (b). The Employment
18 Development Department may provide preliminary screening and
19 referral to a certifying agency. The Department of Housing and
20 Community Development shall develop regulations for the issuance
21 of certificates pursuant to subdivision (g) of Section 7097 of the
22 Government Code, and shall develop forms for this purpose.

23 (2) Retain a copy of the certification and provide it upon request
24 to the Franchise Tax Board.

25 (e) (1) For purposes of this section:

26 (A) All employees of all corporations that are members of the
27 same controlled group of corporations shall be treated as employed
28 by a single taxpayer.

29 (B) The credit, if any, allowable by this section to each member
30 shall be determined by reference to its proportionate share of the
31 expense of the qualified wages giving rise to the credit, and shall
32 be allocated in that manner.

33 (C) For purposes of this subdivision, “controlled group of
34 corporations” means “controlled group of corporations” as defined
35 in Section 1563(a) of the Internal Revenue Code, except that:

36 (i) “More than 50 percent” shall be substituted for “at least 80
37 percent” each place it appears in Section 1563(a)(1) of the Internal
38 Revenue Code.

1 (ii) The determination shall be made without regard to
2 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
3 Revenue Code.

4 (2) If an employer acquires the major portion of a trade or
5 business of another employer—~~hereinafter~~ *hereafter* in this
6 paragraph referred to as the “predecessor”) or the major portion
7 of a separate unit of a trade or business of a predecessor, then, for
8 purposes of applying this section (other than subdivision (f)) for
9 any calendar year ending after that acquisition, the employment
10 relationship between a qualified employee and an employer shall
11 not be treated as terminated if the employee continues to be
12 employed in that trade or business.

13 (f) (1) (A) If the employment, other than seasonal employment,
14 of any qualified employee with respect to whom qualified wages
15 are taken into account under subdivision (a) is terminated by the
16 qualified taxpayer at any time during the first 270 days of that
17 employment (whether or not consecutive) or before the close of
18 the 270th calendar day after the day in which that employee
19 completes 90 days of employment with the qualified taxpayer, the
20 tax imposed by this part for the taxable year in which that
21 employment is terminated shall be increased by an amount equal
22 to the credit allowed under subdivision (a) for that taxable year
23 and all prior taxable years attributable to qualified wages paid or
24 incurred with respect to that employee.

25 (B) If the seasonal employment of any qualified employee, with
26 respect to whom qualified wages are taken into account under
27 subdivision (a) is not continued by the qualified taxpayer for a
28 period of 270 days of employment during the 60-month period
29 beginning with the day the qualified employee commences seasonal
30 employment with the qualified taxpayer, the tax imposed by this
31 part, for the taxable year that includes the 60th month following
32 the month in which the qualified employee commences seasonal
33 employment with the qualified taxpayer, shall be increased by an
34 amount equal to the credit allowed under subdivision (a) for that
35 taxable year and all prior taxable years attributable to qualified
36 wages paid or incurred with respect to that qualified employee.

37 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
38 any of the following:

39 (i) A termination of employment of a qualified employee who
40 voluntarily leaves the employment of the qualified taxpayer.

1 (ii) A termination of employment of a qualified employee who,
2 before the close of the period referred to in subparagraph (A) of
3 paragraph (1), becomes disabled and unable to perform the services
4 of that employment, unless that disability is removed before the
5 close of that period and the qualified taxpayer fails to offer
6 reemployment to that employee.

7 (iii) A termination of employment of a qualified employee, if
8 it is determined that the termination was due to the misconduct (as
9 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
10 the California Code of Regulations) of that employee.

11 (iv) A termination of employment of a qualified employee due
12 to a substantial reduction in the trade or business operations of the
13 taxpayer.

14 (v) A termination of employment of a qualified employee, if
15 that employee is replaced by other qualified employees so as to
16 create a net increase in both the number of employees and the
17 hours of employment.

18 (B) Subparagraph (B) of paragraph (1) shall not apply to any
19 of the following:

20 (i) A failure to continue the seasonal employment of a qualified
21 employee who voluntarily fails to return to the seasonal
22 employment of the qualified taxpayer.

23 (ii) A failure to continue the seasonal employment of a qualified
24 employee who, before the close of the period referred to in
25 subparagraph (B) of paragraph (1), becomes disabled and unable
26 to perform the services of that seasonal employment, unless that
27 disability is removed before the close of that period and the
28 qualified taxpayer fails to offer seasonal employment to that
29 qualified employee.

30 (iii) A failure to continue the seasonal employment of a qualified
31 employee, if it is determined that the failure to continue the
32 seasonal employment was due to the misconduct (as defined in
33 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
34 Code of Regulations) of that qualified employee.

35 (iv) A failure to continue seasonal employment of a qualified
36 employee due to a substantial reduction in the regular seasonal
37 trade or business operations of the qualified taxpayer.

38 (v) A failure to continue the seasonal employment of a qualified
39 employee, if that qualified employee is replaced by other qualified

1 employees so as to create a net increase in both the number of
2 seasonal employees and the hours of seasonal employment.

3 (C) For purposes of paragraph (1), the employment relationship
4 between the qualified taxpayer and a qualified employee shall not
5 be treated as terminated by either of the following:

6 (i) By a transaction to which Section 381(a) of the Internal
7 Revenue Code applies, if the qualified employee continues to be
8 employed by the acquiring corporation.

9 (ii) By reason of a mere change in the form of conducting the
10 trade or business of the qualified taxpayer, if the qualified
11 employee continues to be employed in that trade or business and
12 the qualified taxpayer retains a substantial interest in that trade or
13 business.

14 (3) Any increase in tax under paragraph (1) shall not be treated
15 as tax imposed by this part for purposes of determining the amount
16 of any credit allowable under this part.

17 (g) Rules similar to the rules provided in Sections 46(e) and (h)
18 of the Internal Revenue Code shall apply to both of the following:

19 (1) An organization to which Section 593 of the Internal
20 Revenue Code applies.

21 (2) A regulated investment company or a real estate investment
22 trust subject to taxation under this part.

23 (h) For purposes of this section, “targeted tax area” means an
24 area designated pursuant to Chapter 12.93 (commencing with
25 Section 7097) of Division 7 of Title 1 of the Government Code.

26 (i) In the case where the credit otherwise allowed under this
27 section exceeds the “tax” for the taxable year, that portion of the
28 credit that exceeds the “tax” may be carried over and added to the
29 credit, if any, in succeeding taxable years, until the credit is
30 exhausted. The credit shall be applied first to the earliest taxable
31 years possible.

32 (j) (1) The amount of the credit otherwise allowed under this
33 section and Section 23633, including any credit carryover from
34 prior years, that may reduce the “tax” for the taxable year shall
35 not exceed the amount of tax that would be imposed on the
36 qualified taxpayer’s business income attributable to the targeted
37 tax area determined as if that attributable income represented all
38 of the income of the qualified taxpayer subject to tax under this
39 part.

1 (2) Attributable income shall be that portion of the taxpayer's
2 California source business income that is apportioned to the
3 targeted tax area. For that purpose, the taxpayer's business income
4 attributable to sources in this state first shall be determined in
5 accordance with Chapter 17 (commencing with Section 25101).
6 That business income shall be further apportioned to the targeted
7 tax area in accordance with Article 2 (commencing with Section
8 25120) of Chapter 17, modified for purposes of this section in
9 accordance with paragraph (3).

10 (3) Business income shall be apportioned to the targeted tax
11 area by multiplying the total California business income of the
12 taxpayer by a fraction, the numerator of which is the property
13 factor plus the payroll factor, and the denominator of which is two.
14 For purposes of this paragraph:

15 (A) The property factor is a fraction, the numerator of which is
16 the average value of the taxpayer's real and tangible personal
17 property owned or rented and used in the targeted tax area during
18 the taxable year, and the denominator of which is the average value
19 of all the taxpayer's real and tangible personal property owned or
20 rented and used in this state during the taxable year.

21 (B) The payroll factor is a fraction, the numerator of which is
22 the total amount paid by the taxpayer in the targeted tax area during
23 the taxable year for compensation, and the denominator of which
24 is the total compensation paid by the taxpayer in this state during
25 the taxable year.

26 (4) The portion of any credit remaining, if any, after application
27 of this subdivision, shall be carried over to succeeding taxable
28 years, as if it were an amount exceeding the "tax" for the taxable
29 year, as provided in subdivision (h).

30 (5) In the event that a credit carryover is allowable under
31 subdivision (h) for any taxable year after the targeted tax area
32 designation has expired or been revoked, the targeted tax area shall
33 be deemed to remain in existence for purposes of computing the
34 limitation specified in this subdivision.

35 *(k) The changes made to this section by the act adding this*
36 *subdivision shall apply to taxable years beginning on or after*
37 *January 1, 2011.*

1 *SEC. 7. This act provides for a tax levy within the meaning of*
2 *Article IV of the Constitution and shall go into immediate effect.*

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